

ESTTA Tracking number: **ESTTA571542**

Filing date: **11/18/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Tristar Products, Inc.
Granted to Date of previous extension	11/20/2013
Address	492 Route 46 East Fairfield, NJ 07004 UNITED STATES
Attorney information	Daniel J. Holmader Barlow, Josephs & Holmes Ltd. 101 Dyer Street, 5th floor Providence, RI 02903 UNITED STATES djh@barjos.com Phone:4012734446x103

### Applicant Information

Application No	85858982	Publication date	07/23/2013
Opposition Filing Date	11/18/2013	Opposition Period Ends	11/20/2013
Applicant	SHFT Global Inc 29721 Hazel Glen RD Murrieta, CA 92563 NV		

### Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: On-line retail store services featuring a wide variety of consumer goods of others


### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4032799	Application Date	01/03/2011
Registration Date	09/27/2011	Foreign Priority Date	NONE
Word Mark	GENIE BRA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2011/02/15 First Use In Commerce: 2011/02/15 Bras


U.S. Registration No.	4170355	Application Date	05/27/2011
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	GENIE BRA WHAT ALL WOMEN WISH FOR		
Design Mark			
Description of Mark	The mark consists of the words "GENIE BRA" in script lettering with a heart design over the "i" in "GENIE" above the words "WHAT ALL WOMEN WISH FOR".		
Goods/Services	Class 025. First use: First Use: 2011/02/15 First Use In Commerce: 2011/02/15 Bras		

U.S. Application No.	85751771	Application Date	10/11/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIE		

Design Mark	<h1>GENIE</h1>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2011/02/15 First Use In Commerce: 2011/02/15 Bras; Briefs; Camisoles; Chemises; Hosiery; Ladies' underwear; Leotards; Lingerie; Negligees; Nightgowns; Pajamas; Panties; Peignoirs; Robes; Shapewear, namely, shorts, control briefs, control camisoles and control slips; Shorts; Sleepwear; Slips; Stockings; Teddies; Tights

U.S. Application No.	85306200	Application Date	04/27/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIEJEANS		
Design Mark	<h1>GenieJeans</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Jeans; Leggings; Pants; Stretch pants; Sweat pants; Tops		

U.S. Application No.	85306226	Application Date	04/27/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIEPLUS		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Bras; Foundation garments; Leggings; Sleepwear; Sports bras; Tops; Under garments		


U.S. Application No.	85306249	Application Date	04/27/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIESPORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Leggings; Sports bras; Sports pants; Stretch pants; Sweat pants; Sweat shirts; Tops		


U.S. Application No.	85808269	Application Date	12/20/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIE COMFORT		

Design Mark	<b>GENIE COMFORT</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Bras; Briefs; Camisoles; Chemises; Foundation garments; Hosiery; Leggings; Leotards; Lingerie; Negligees; Pants; Robes; Shapewear, namely, shorts, control briefs, control camisoles, and control slips; Shirts; Shorts; Sleepwear; Slips; Stockings; Teddies; Tights; Tops; Undergarments; Underwear

U.S. Application No.	85808628	Application Date	12/21/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIE MAGIC		
Design Mark	<b>GENIE MAGIC</b>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Undergarment accessories, namely, bra pads, bra inserts, bust inserts; lingerie accessories, namely, removable breast enhancer pads used in a bra		

U.S. Application No.	85453023	Application Date	10/21/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIE TRANSFORMA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Bras

U.S. Application No.	85272359	Application Date	03/21/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GENIE WEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Foundation garments; Lingerie; Women's underwear		

Attachments	85209455#TMSN.jpeg( bytes ) 85332168#TMSN.jpeg( bytes ) 85751771#TMSN.jpeg( bytes ) 85306200#TMSN.jpeg( bytes ) 85306226#TMSN.jpeg( bytes ) 85306249#TMSN.jpeg( bytes ) 85808269#TMSN.jpeg( bytes ) 85808628#TMSN.jpeg( bytes ) 85453023#TMSN.jpeg( bytes ) 85272359#TMSN.jpeg( bytes ) ComplaintShftGlobal.pdf(119266 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/daniel j. holmander/
Name	Daniel J. Holmander
Date	11/18/2013

	)	
Tristar Products, Inc.	)	Opposition No. _____
Opposer,	)	
	)	Application S.N.
v.	)	85/858,982
	)	
SHFT Global, Inc.	)	
Applicant	)	
	)	

Opposer, Tristar Products, Inc. a corporation organized under the laws of Pennsylvania and located at 492 Route 46 East, Fairfield, NJ 07004, believes that it will be damaged by registration of GENSSI (“Mark”), which Mark is the subject of U.S. Fed. Trademark Application Serial No. 85/858,982 (“Application”) filed by SHFT Global,, Inc. a corporation organized under the laws of Nevada and located at 29721 Hazel Glen Rd, Murrieta, California, 92563 and which Mark was published for opposition in the *Official Gazette* on July 23, 2013. An extension of time was granted by the Trademark Office for Opposer to file an Opposition by November 20, 2013.



The grounds for the opposition are as follows:

**Section 2(d) of the Trademark Act –Likelihood of Confusion**

1. Applicant seeks to register GENSSI for on-line retail store services featuring a wide variety of consumer goods of others in International Class 035.
2. The opposed Application was filed on February 25, 2013 under Section 1(b) of the Trademark Act.
3. Opposer is the owner of U.S. Trademark Registration Nos. 4,032,799 for the mark GENIE BRA and GENIE BRA WHAT ALL WOMEN WISH FOR in at least international class 25 in relation to bras. Said registrations are valid and subsisting.
4. Opposer is also the owner of U.S. Trademark Appl. Ser. No. 85/751,771 filed October 11, 2012 for the mark GENIE in at least international class 025 for Bras; Briefs; Camisoles; Chemises; Hosiery; Ladies' underwear; Leotards; Lingerie; Negligees; Nightgowns; Pajamas; Panties; Peignoirs; Robes; Shapewear, namely, shorts, control briefs, control camisoles and control slips; Shorts;

Sleepwear; Slips; Stockings; Teddies; Tights. Said application received a Notice of Allowance on April 2, 2013.

5. Opposer is also the owner of U.S. Trademark Appl. Ser. Nos. 85/306,200 for GENIEJEANS, 85/306,226 for GENIEPLUS, 85/306,249 for GENIESPORT, 85/808,269 for GENIE COMFORT, 85/808,628 for GENIE MAGIC, 85/453,023 for GENIE TRANSFORMA, and 85/272,359 for GENIE WEAR in at least international class 025. Said applications received Notices of Allowance.
6. Since at least 2011 or earlier, and long prior to Applicant's filing date, Opposer has used GENIE and other GENIE type marks listed above in connection with at least undergarments.
7. Opposer has been offering for sale at least under undergarments under the domain name GENIEBRA.COM - which was created on December 29, 2010.
8. Opposer's goods in connection with its trademarks for GENIE and other GENIE type marks listed above ("GENIE type marks") are

closely related to goods identified in Application Serial No. 85/858,982 for the mark GENSSI. On information and belief, Opposer's goods and Applicant's goods are offered to the same classes of customers through the same channels of trade.

9. Applicant's Mark, GENSSI, is confusingly similar to Opposer's GENIE and related GENIE type marks, and is likely to cause confusion.
10. Applicant's Mark, GENSSI, is listed in highly related international Class 035 as the Opposer's trademark GENIE and related GENIE type marks.
11. If Applicant uses the Mark GENSSI with the services identified in Application 85/858,982, such use would be likely to cause confusion, mistake, and/or deception of the relevant trade and public. Customers and potential customers are likely to believe that Applicant's services offered under the Mark emanate from, or are licensed or approved by, Opposer, when that is not the case. Such confusion, mistake, and/or deception would be a source of damage to

Opposer.

12. If Applicant is granted the registration herein opposed, it would thereby obtain a prima facie right to use the Mark GENSSI which is confusingly similar to the Opposer's marks, which would be a further source of damage to Opposer.

13. Applicant's Mark, GENSSI, is likely to cause confusion with Opposer's trademark GENIE and related GENIE type marks, and therefore Applicant's Mark should be refused registration, rendered unenforceable, and/or restricted under Section 2(d) of the Trademark Act.

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**WHEREFORE,** Opposer believes that it will be damaged by registration of said Mark - GENSSI, and prays that this Opposition be sustained in favor of Opposer, that Application Serial No. 85/858,982 be refused registration, rendered unenforceable, and/or restricted based upon at the least the grounds set forth above. The Applicant reserves the right to add additional counts beyond those recited above.

Opposer hereby appoints Barlow, Josephs & Holmes Ltd., a law firm composed of Daniel J. Holmander, Stephen J. Holmes, Cheryl Clarkin, David Josephs, Robert Lichter, and Joshua Stockwell, to act as attorneys for Opposer herein, with full power to prosecute said Opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

The fee required for the Opposition for one class (\$300 USD) is set out at (2.6(a)(17) and the TTAB is authorized to charge any fees necessary for filing this Opposition to our Deposit Account 020900.

Respectfully submitted,

Tristar Products, Inc.. (Opposer)

Date: November 18, 2013

/daniel j. holmander/  
Daniel J. Holmander, Esq.  
Counsel for Opposer

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Email: [djh@barjos.com](mailto:djh@barjos.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **OPPOSITION** has been served on Applicant's counsel and Applicant, at the following addresses of record, by first class mail, postage prepaid, this 18th day of November 2013:

**Applicant**

SHFT Global, Inc.  
29721 Hazel Glen Rd  
Murrieta, CA 92563

**Applicant's Counsel**

Brian A. Hall  
Traverse Legal, PLC  
810 Cottage View Dr. Ste G-20  
Traverse City, MI 49684-2606